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Chair

The Honourable John McKay

Standing Committee on Public Safety and National Security

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• (0850)

[English]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Ladies and gentlemen, I see a quorum. We are under some time pressures, so I'm going to call the meeting to order.

Before we get started, I want to note that votes are scheduled at 10:40. Under the Standing Orders, I'm obligated to suspend proceedings when the bells start ringing, which will be at 10:10. I'm sure colleagues would like to finish with clause-by-clause consideration today. I, possibly, will ask for unanimous consent to extend. If we don't have unanimous consent to extend, then we'll have to come back to this on Tuesday. When colleagues are debating amendments, and points have been made, they don't need to be made again.

With that, let's proceed.

There are no amendments to clause 1.

(Clause 1 carried)

(On clause 2)

The Chair: The first amendment is NDP-1.

Mr. Dubé.

[Translation]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you, Mr. Chair.

With this amendment, we want to limit the regulatory changes the minister can make and further clarify the types of information that may be collected.

[English]

The Chair: Is there any debate on NDP-1?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: The next amendment is NDP-2.

Mr. Dubé.

Mr. Matthew Dubé: Thank you, Chair.

We've raised concerns about the number of regulatory changes that can be made subject to this legislation. In an effort to seek a compromise, we are seeking to amend the legislation so that the Governor in Council must consult first nations, after the testimony we heard, and the Privacy Commissioner before proceeding with

regulatory changes. That way, having the involvement of the Privacy Commissioner in particular, we can make sure that even in these vast regulatory powers, there is some kind of safeguard for Canadians.

The Chair: Mr. Picard.

[Translation]

Mr. Michel Picard (Montarville, Lib.): I will not support this amendment because the reference to a single group of persons limits consultation. The Commissioner already consults not only the first nations, but the entire business community. It would therefore be pointless to limit his obligation to consult.

[English]

The Chair: Mr. Dubé.

[Translation]

Mr. Matthew Dubé: We would like the Privacy Commissioner to have the legal duty to consult before making any regulatory changes. This seems entirely appropriate to me, especially in view of the range of regulatory powers set forth in the act. The government apparently does not share that opinion.

[English]

The Chair: Is there any other debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is NDP-3.

Mr. Dubé.

Mr. Matthew Dubé: This is another amendment seeking to narrow down the scope of both the type of information and the regulatory powers.

The Chair: Is there any debate on NDP-3?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is NDP-4.

Mr. Dubé.

[Translation]

Mr. Matthew Dubé: Thank you, Mr. Chair.

This amendment is based on the same principle as our second amendment. It seeks to establish a duty to consult in another part of the bill, which pertains to regulatory powers.

[English]

The Chair: Is there any debate?

Monsieur Picard.

[Translation]

Mr. Michel Picard: I maintain my objection to limiting consultation, since that is already part of the Commissioner's role. As an independent body, the office of the Commissioner consults a wider range of stakeholders than a single group.

[English]

The Chair: Is there any other debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is CPC-1.

[Translation]

Mr. Paul-Hus, you have the floor.

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): This amendment is designed to limit the retention of information to 99 years. In the United States, the limit is 76 years. In Canada, there is no limit at this time. The idea is to retain the data so that, if an offence is committed in 15 or 20 years, information is available to determine whether a specific person crossed the border at a specific time on a specific date. We suggest a limit of 99 years because that is roughly a person's life span.

● (0855)

[English]

The Chair: I saw Mr. Dubé first.

[Translation]

Mr. Matthew Dubé: Thank you, Mr. Chair.

After 90 years, we might as well not do anything. That is such a long time to retain data that it serves absolutely no purpose. So I will oppose this amendment. I will present our own amendment later on, which suggests a data retention period that protects privacy.

[English]

The Chair: Mr. Spengemann.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Mr. Chair, the Liberal members will not support the amendment. There isn't any justifiable, reasonable connection to the policy objectives of the legislation to set this limit at 99 years.

The Chair: Monsieur Picard.

[Translation]

Mr. Michel Picard: For criminal investigations, the data is usually destroyed after 10 years. I might have been tempted to agree to support for 10 or 15 years, but 99 years makes no sense.

[English]

The Chair: Is there any other debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is NDP-5.

Mr. Dubé.

Mr. Matthew Dubé: Chair, this is our attempt to create some kind of accountability for CBSA when it comes to redress. We heard from witnesses from the different departments that would be using this information, whether it's with regard to EI claims or OAS, that Canadians caught up in this net would have to address their concerns

or their justification through that department and not through CBSA to determine the accuracy of the information.

We also heard from Professor Wark about the lack of review and accountability for CBSA generally speaking, so we feel this amendment seeks to correct that issue with the bill somewhat.

The Chair: Is there any debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is NDP-6.

Mr. Matthew Dubé: Chair, this is our retention schedule, which at 15 years we feel is much more in line with some of the concerns we heard, notably from the Privacy Commissioner, when it comes to how long this information will be kept, particularly with regard to CBSA. Different departments seem to have different policies as to how long they will retain the information. We feel it's important to have it specifically outlined in the bill.

As I mentioned in an earlier comment, at 15 years we're dealing with something that makes much more sense when it comes to protecting Canadians' privacy as opposed to paying lip service to it.

The Chair: Is there any debate?

Ms. Damoff.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): We think 15 years is a reasonable time, and we would be pleased to support this amendment.

The Chair: Mr. Motz.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): I think it would be reasonable that we would extend the time actually from 15 years. There are circumstances in law enforcement history as well as in terrorism tracking where 15 years of data could be not a sufficient amount of time to track a person's movements. I know there's a reasonableness to it and I would hope that in this legislation we can arrive at something that allows for a bit of an extended time. I would agree that 99 years may be excessive, and zero is certainly not acceptable. Fifteen years still allows someone to be able to lose the record of their movement back and forth. I would propose that it be extended by at least double that. Thirty years would give someone—

An hon. member: [Inaudible—Editor]

Mr. Glen Motz: I know, but it's something that... I can't support 15 years. I just think it's unreasonable. People can certainly have activities going on here that cannot be tracked beyond 15 years back. I know from experience that we lose a lot of information on retention schedules that we have already.

● (0900)

The Chair: I hear your argument. Are you proposing an amendment?

Mr. Glen Motz: Well, to be honest with you, we do need some retention years in here, obviously. I think 15 years is unreasonable. It's a start, but it's too low. I think if as a group we can live with 50 or 35, somewhere in that range, that allows for... When you look at terrorist activity or criminal activity—and I'm just looking at this—they come into the country at 16, 18, 20 years old, and they hibernate, if you will, for some time. We can track—

The Chair: I'm sorry to interrupt you, but you are making an argument. The question is, are you prepared to make an amendment and then make your argument?

Mr. Glen Motz: Sure. Sorry.

The Chair: If you are prepared to make your amendment, then we can debate the amendment.

Mr. Glen Motz: With the committee's indulgence, I would seek to amend the years of record retention to 40 years.

The Chair: I think that's in order, and it's certainly within the purview.

I'll let Mr. Motz make his argument first, and then get others to respond.

Mr. Motz.

Mr. Glen Motz: Thank you, Chair.

That could be an arbitrary number, obviously, but the reason I suggest that is there are individuals who might enter this country and disappear for a time, with no activities and no travel back and forth or whatever, and their activities and their movements would be great to have because they could become involved in criminal activity, terrorist activity, in subsequent years and we could lose it. I do know from experience on criminal matters that in even some of our minor files we have record retention schedules of 10 or 15 years, and individuals may be silent in those years and we lose them permanently. They're gone and you can't ever access them again and it's critical that sometimes that information comes up.

I know we need a reasonableness balance here, but 15 years doesn't really allow us enough time and I see at the other end it's too much time. If someone comes into the country at age 20 years or 16 years, and we have a 40-year span, we hope that by the time they're 60 or 70 they're going to have demonstrated themselves already to be a risk to our country.

The Chair: Thank you, Mr. Motz.

For the purpose of clarity and further debate, the subamendment would effectively make the NDP amendment read "retain for 40 years beginning on the day of". Is that clear to everyone?

Mr. Dubé.

Mr. Matthew Dubé: Yes, Chair, I won't be supporting the amendment. I feel that even in the justice system, when it comes to life in prison, you're talking about 25 years, so I think that already demonstrates the length of time that this represents. It doesn't seem like a long time, but as soon as you're arguably close to a lifetime span, it again becomes a moot point.

It's also important to note that we already collect entry information anyway, which is exactly what Mr. Motz is talking about. This doesn't change that. This is specifically about the exit information that's being retained. We do have records of who enters the country. That's already something that exists, regardless of whether this bill is adopted or not.

Again, I feel 15 years allows the legislative objectives to be accomplished. I'm certainly also glad to see that the government sees that the same way, and I'll be voting against this amendment.

The Chair: Mr. Picard.

Mr. Michel Picard: To reassure my colleague, I do share the concern that we don't want to lose information. Having worked on databases covering 10 years of data, the behaviour, the pattern you want to look at is pretty much covered in this period of time. Where we feared losing some information at the beginning of the period, more than 10 years, we have the challenge of stretching that to the trial and justice system and what you can prove is quite limited because of time to give all the evidence you need. I think 15 years takes a good shot at expanding what exists already on the 10-year limitation of keeping data in the system, but long enough at least to give us a good idea of the pattern, the substance we're looking for, and gives us substance to work with. I'll remain at 15 years.

• (0905)

The Chair: Is there any other debate?

Mr. Motz.

Mr. Glen Motz: Thank you, Mr. Chair.

Mr. Dubé, you're right about the exit information. We know that many of the threats posed to our country are because they're radicalized somewhere else. Monitoring the exit information and the number of times they leave this country to maybe have that exposure elsewhere in our world would be important to track for longer than 15 years.

Thank you.

The Chair: Is there any other debate?

[*Translation*]

Mr. Paul-Hus, please go ahead.

Mr. Pierre Paul-Hus: My colleague referred to terrorism, but terrorism is not the only concern. We are talking about all kinds of crimes, property crimes and many other things. That is why retaining the information for a long time can be crucial to Canadian security. Terrorism is one concern, of course, but there are many others as well.

[*English*]

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Mr. Chair, it's been raised but I'll raise it again, with respect to the argument about leaving and being radicalized elsewhere, if they're leaving and if your concern is that they're coming back, we still have the entry information on file.

The Chair: Is there any other debate?

The question is on the subamendment. It's pretty clear it's 40 years.

(Subamendment negated [See *Minutes of Proceedings*])

The Chair: Now we're voting on the main amendment, NDP-6.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: You're on a roll, Mr. Dubé.

We're moving on to amendment CPC-2.

[Translation]

Mr. Pierre Paul-Hus: Thank you, Mr. Chair.

The amendment is designed to require the Privacy Commissioner, every five years, to review the use of the data collected. Protecting privacy is important to us.

[English]

The Chair: Is there any debate?

Mr. Dubé.

Mr. Matthew Dubé: I will be supporting the amendment, but I will also be moving my own because again I feel five years is too long. I would prefer to see annual reporting, as Professor Wark recommended.

The Chair: Is there any other debate?

(Amendment negated [See *Minutes of Proceedings*])

[Translation]

Mr. Pierre Paul-Hus: I would have liked to know why the member thinks that.

Mr. Michel Picard: That review is already one of the Commissioner's responsibilities.

Mr. Pierre Paul-Hus: So he will do it automatically?

Mr. Michel Picard: Yes, he does it in any case.

[English]

The Chair: Gentlemen, please address the chair while you're debating among yourselves. Thank you.

We're moving on to amendment NDP-7.

Mr. Dubé.

[Translation]

Mr. Matthew Dubé: Thank you, Mr. Chair.

Once again, this amendment is in line with one of Professor Wark's recommendations, namely, that an annual report on the data collected be tabled in Parliament. I consider this entirely appropriate. This will provide accountability and also protect the privacy of Canadians.

[English]

The Chair: Is there any debate?

Mr. Spengemann.

Mr. Sven Spengemann: Mr. Chair, thank you very much.

Liberal members are opposed to the amendment because it's essentially creating an obligation to report very specifically on sections 92 to 94. This is redundant in the context of the minister's broader practice to table an annual departmental report but cover the activities of the entire agency and that would include those impacted by Bill C-21.

The Chair: Is there any other debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We now have amendment NDP-8.

Mr. Matthew Dubé: Chair, this is a concern that was raised by the Canadian Civil Liberties Association with regard to solicitor-client privilege. The amendment seeks to protect that and also specifies the specificity of the Quebec situation in that sense.

● (0910)

The Chair: Is there any debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Shall clause 2 carry as amended?

Mr. Matthew Dubé: On division.

(Clause 2 as amended agreed to on division)

The Chair: There are no amendments to clauses 3 through 8. Shall clauses 3 through 8 carry?

Mr. Matthew Dubé: On division.

(Clauses 3 to 8 inclusive agreed to on division)

The Chair: The next amendment is CPC-3.

Mr. Paul-Hus.

[Translation]

Mr. Pierre Paul-Hus: Our amendment seeks to require that, before the end of the 270th day after the day on which this act receives royal assent, a committee of the Senate or of the House of Commons conduct a study to verify the proper application and smooth operation of the act, and to evaluate its financial impact.

[English]

The Chair: Is there any debate?

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Shall clause 9 carry?

Mr. Matthew Dubé: On division.

(Clause 9 agreed to on division)

The Chair: We have amendment CPC-4.

Mr. Paul-Hus.

Mr. Matthew Dubé: Mr. Chair, do we do clause 10?

The Chair: There's a mistake in the script, not a mistake in the bill. This bill ends with clause 9.

We're now back to the beginning of it. Mr. Paul-Hus has amendment CPC-4.

Mr. Paul-Hus.

[Translation]

Mr. Pierre Paul-Hus: The purpose of this amendment is simply that the act be called the "Canada-United States Beyond the Border Action Plan Implementation Act".

[English]

The Chair: It is what it is.

Debate.

Ms. Damoff.

Ms. Pam Damoff: Just quickly, “Beyond the Border” covered a great deal more than just entry and exit. It’s too broad for what this bill entails, so we won’t be supporting it.

The Chair: Is there further debate?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: Now we have amendment LIB-1.

Ms. Damoff.

Ms. Pam Damoff: We heard testimony from the Canadian Civil Liberties folks when they were here about adding a preamble that is similar to other legislation we have. While all of us recognize that all of our laws are governed by the safeguards provided and the rights and freedoms that we have as Canadians in the charter, adding this as a preamble just reinforces that fact. We would suggest adding a preamble that is present in other bills to just emphasize the fact that everything will be carried out with the rule of law and consistent with the Canadian Charter of Rights and Freedoms.

The Chair: I regret to inform you, Ms. Damoff, that this is inadmissible. The bill comes to us without a preamble, and it is not within the purview of a committee to introduce a preamble. Unfortunately therefore, it is inadmissible, and therefore we are not required to vote on it.

Ms. Pam Damoff: Thank you.

The Chair: That brings us to the final bit.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

● (0915)

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill be reprinted?

Some hon. members: Agreed.

The Chair: I want to thank each and every one of you for your extensive co-operation over the course of the hearings on this bill. You’ve comported yourselves in an exemplary fashion. I particularly appreciate the help you’ve given the Chair.

I also want to thank the officials for their availability. I’m sure they’re quite disappointed they weren’t called upon to settle our keen arguments.

Unless we have other business committee members wish to discuss, I’m going to bring this meeting to an end.

The meeting is adjourned.

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